

URGENCY ORDINANCE NO. 2020-13

AN URGENCY ORDINANCE OF THE CITY OF COSTA MESA TEMPORARILY SUSPENDING THE PERMIT REQUIREMENTS AND DEVELOPMENT STANDARDS FOR PARKING OF THE ZONING CODE APPLICABLE TO SPECIFIED FOOD DISTRIBUTION ACTIVITIES AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

WHEREAS, the City of Costa Mesa, pursuant to its police power, may enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On February 26, 2020, the Orange County Board of Supervisors and Department of Public Health declared a public health emergency in Orange County due to COVID-19. On March 12, 2020, pursuant to Proclamation No. 2020-01, the City Manager did proclaim the existence of a local emergency pursuant to Title 6 of the Costa Mesa Municipal Code, and on March 13, 2020 the City Council pursuant to Resolution No. 2020-09 did ratify Emergency Proclamation No. 2020-01. Due to directives from federal, state, and local health officials, residents have been ordered to avoid public gatherings and stay at home to prevent the spread of this disease.

WHEREAS, the City has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been canceled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods.

WHEREAS, With up to one in 7 Californians out of work due to the coronavirus crisis, food security is an increasing concern regionally and locally. The City has seen strong demand from seniors for food donations during the food distribution held at the Senior Center.

WHEREAS, On March 21, 2020 Second Harvest Food Bank launched a drive-through food bank in the parking lot of the Honda Center with the goal of feeding 4,000 families and was quickly overwhelmed by the need. They have since increased their capacity to serve 8,000 families weekly, demonstrating that there is significant demand for food assistance in Orange County.

WHEREAS, all restaurants within the City have been reduced to take out and delivery options in compliance with the Governor's Executive Orders. The economic impacts of this public health crisis could irreparably harm many of the City's restaurants.

WHEREAS, the parking spaces required by the Zoning Code for sit-down dining, and many other surrounding commercial uses, are no longer being utilized during the state of emergency, such that suspending the use permit requirements for deviation from the applicable parking standards will not cause an impact to the surrounding areas within the City.

WHEREAS, the City of Costa Mesa, pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA Guidelines (Sections 15000 et seq., Title 14 the California Code of Regulations) has determined that the Ordinance is exempt from the provisions of CEQA pursuant to the following sections of the CEQA Guidelines: Section 15269(c) (specific actions necessary to prevent or mitigate an emergency); and Section 15061(b)(3) because it can be seen with certainty that the adoption of this Ordinance will not have an effect on the environment.

WHEREAS, the City Council has the authority to adopt this Ordinance under Government Code Section 8630, and also its authority under California Constitution Art XI, section 7.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

SECTION 1. Temporary Suspension of Conditional Use Permit and Minor Conditional Use Permit Requirements and Development Standards Related to Parking for Drive Through Operations Applicable to Food Banks, Farmers Markets, Restaurants and Similar Uses Involving Food Distribution.

- A. Scope. This Ordinance applies to all conditional use permit and minor conditional use permit requirements and development standards applicable to parking of the following sections of the Costa Mesa Municipal Code to the extent that they apply or are interpreted to apply to a food bank, farmers market, restaurant or a similar use involving food distribution: Section 13-30, subsection (d), 13-44, 13-47, 13-50 and 13-89, and Table 13-44 (Commercial Development Standards): uses underroof; Table 13-47 (Permitted and Conditionally Permitted Uses): location and operational characteristics; and Table 13-89 (Non-Residential Parking Standards).
- B. Applicability. The temporary suspension of the requirements set forth herein shall apply to those uses that operate in full compliance with all otherwise applicable state and local laws and regulations, and all health,

safety, welfare, operational and traffic control standards established by the Health Officer and/or the Zoning Administrator for each such use.

- C. Definitions. The words and phrases used in the Ordinance not defined herein shall have the same meaning ascribed to them in the Zoning Code.

Food Bank. A place where stocks of food, typically basic provisions and nonperishable items, are supplied free of charge to people in need by a not-for-profit agency.

Farmers Market. A food market at which local farmers sell fruit and vegetables and often meat, cheese, and bakery products directly to consumers.

SECTION 2. Emergency Declaration/Effective Date. The City Council declares this Ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934. The facts constituting the emergency are as follows: Due to the directives from health officials to contain the spread of COVID-19, a significant loss of business, work furloughs, loss of wages, and lack of work for employees has occurred in many sectors. Many members of the Costa Mesa community, and Orange County in general, are in danger of food shortages due to lost wages, lack of income and illness. Accordingly, food security is an increasing concern both regionally and locally. Furthermore, Costa Mesa's restaurants, one of the hallmarks of the community, have been reduced to take out and delivery options in compliance with the Governor's Executive Orders, while many restaurants without traditional drive-through options now have large unused parking lots offering a temporary alternative to traditional drive-through services. The economic impacts of this public health crisis is resulting in irreparable harm to the residents and businesses within the City. A temporary emergency measure is necessary to protect the public by enabling and encouraging non-traditional food distribution uses suited to the emergency restrictions imposed on residents and business that would otherwise be prohibited, hindered or delayed by the provisions of the Zoning Code.

SECTION 3. Term. This Ordinance shall remain in effect until the expiration of the local emergency set forth in Proclamation of Local Emergency 2020-01, unless otherwise repealed, amended or extended.

SECTION 4. Uncodified Ordinance. This Ordinance shall not be codified in the Costa Mesa Municipal Code.

Section 5. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 6. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

SECTION 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance as required by law.

